

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Ram Gopal Lakshmi NARAYANAN

Serial No.: 10/024,441

Filed: December 18, 2001

For: SYSTEM AND METHOD USING
LEGACY SERVERS IN RELIABLE
SERVER POOLS

Atty. Docket No.: 005288.00020

Group Art Unit: 2142

Examiner: Meucci, Michael D.

Confirmation No.: 3297

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Box AF

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated in the below remarks. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

Remarks

Having received and reviewed the final Office Action dated January 10, 2006, and the Advisory Action dated April 24, 2006, Applicants respectfully submit that the standing rejections are based on one or more clear errors, and that the appeal process can be avoided through a pre-appeal brief review as set forth in the Official Gazette notice of July 12, 2005.

The pending rejections fail to address all the claim limitations, and exhibit clear factual and legal errors with respect to the cited references. The specific errors relied upon in this Pre-Appeal Brief Request for Review include the following:

- The Office made clear error in relying on the combination of Tuexen and Aull, as argued in Applicant's Request for Reconsideration filed April 7, 2006, pp. 2-3. Applicants believe this to be clear factual error, buttressed by the fact that Applicants promoted this sole argument in its April 7, 2006, Request.
- The Office made clear legal error by combining Tuexen and Aull to allege a rejection of claims under 35 U.S.C. § 103(a), as argued in Applicant's Amendment dated October 19, 2005, pp. 5-7.

While Applicants believe the above points represent the clearest errors made by the Office, Applicants reserve the right to appeal on other bases and errors. In addition, Applicants believe the rejections of other claims not identified above are also based on one or more Office errors. Applicants will address such issues on appeal should the appeal of this case proceed after the Office's consideration of this paper.

CONCLUSION

All issues having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. However, if for any reason the review panel believes the application is not in condition for allowance or there are any questions, the review panel is invited to contact the undersigned at (202) 824-3153.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated this 10th day of July, 2006

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